

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

CRL.A.No. 554 of 2003

CC.179/2001 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PALAKKAD

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APPELLANT: COMPLAINANT

P.MUKUNDAN, MANAGER, VYPARAVIJAYAM
TRADERS & AGENCIES (P) LTD., R.S.P.R. BUILDING
MELAMURI, PALAKKAD.

BY ADV. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SRI.N.SASI

RESPONDENTS: ACCUSED

1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
2. V.MAJEED S/O. LATE MOOSA,
VELUTHEDATH PALLIYIL, KODUMUNDA POST,
PATTAMBI, PALAKKAD DISTRICT.

BY PUBLIC PROSECUTOR SRI.AMJETH ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

A.K.BASHEER, J.

Crl.A.No.554 OF 2003

Dated this the 19th day of December 2007

JUDGMENT

This appeal is directed against the order of acquittal passed under Section 256(1) of the Code of Criminal Procedure. The grievance of the appellant/complainant is that he and his counsel had noted the date of posting of the case as December 31, 2002. But it appears that the learned Magistrate had posted the case on 30th of the instant month. On that date neither the appellant nor the counsel was present. Therefore, the learned Magistrate had passed the impugned order acquitting respondent No.2/accused.

2. Though notice was ordered to respondent no.2/accused in this appeal, it could not be served for sometime. Ultimately, fresh notice was ordered on December 7, 2007, to be served through the Circle Inspector of Police, Pattambi. Learned Government Pleader, after getting instruction, submits that he had been informed by the officer that notice has been served on respondent No.2.

3. Having heard learned counsel for the appellant and having perused the materials available on record, I am satisfied that the order passed by the trial court cannot be sustained.

Therefore, the order of acquittal is set aside. Learned Magistrate shall restore C.C.No.179/01 to its file and dispose of the same in accordance with law. Since this is an old case, the learned Magistrate shall make an earnest endeavor to disposed it of as early as possible, at any rate, within four months from the date of receipt of a copy of this judgment.

(A.K.BASHEER, JUDGE)

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